

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Timothy Garrett,	)
	)
Plaintiff,	)
	)
vs.	)
	)
Larry W. Powers, Director of Spartanburg County Jail; Lt. William Church; Officer Kunnak,	)
	)
Defendants.	)
	)

**O R D E R**

At the time of the underlying complaint, Plaintiff Timothy Garrett was detained at the Spartanburg County Detention Center in Spartanburg, South Carolina. Plaintiff, proceeding pro se, filed a complaint on December 18, 2007, alleging that his constitutional rights were violated in various respects. Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

On January 9, 2008, an order was issued authorizing service and directing Plaintiff to advise the Office of the Clerk of Court in writing of any address change. Plaintiff was cautioned that his failure to do so could result in dismissal of his case.

This matter is before the court on motion for summary judgment filed by Defendants on June 24, 2008. On June 25, 2008, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedures and the possible consequences if he failed to respond adequately. The envelope containing Plaintiff's copy of the Roseboro order was returned to the Clerk's Office on July 2, 2008, marked "RETURN TO SENDER. NO LONGER AT THIS INSTITUTION. ADDRESSEE UNKNOWN."

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge William M. Catoe for a Report and Recommendation. On July 7, 2008, the Magistrate Judge issued a Report of Magistrate Judge in which he recommended that the within action be dismissed because Plaintiff had failed to keep the Clerk of Court advised of his current

address, and it appeared that Plaintiff no longer wished to pursue this action.. On June 21, 2008, the envelope containing Plaintiff's copy of the Report of Magistrate Judge was returned to the Clerk's Office marked "RETURN TO SENDER. NOT DELIVERABLE AS ADDRESSED. UNABLE TO FORWARD."

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

It appears that Plaintiff no longer wishes to pursue this action. Accordingly, the court adopts the Magistrate Judge's recommendation that the case be dismissed for lack of prosecution. The within action hereby is dismissed pursuant to Fed. R. Civ. P. 41(b) *with prejudice*.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina  
July 25, 2008

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order  
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**